



Immigration, Refugees  
and Citizenship Canada

Immigration, Réfugiés  
et Citoyenneté Canada

# Evaluation of the Pre- Removal Risk Assessment Program

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## Table of contents

<b>List of acronyms</b> .....	<b>ii</b>
<b>Executive summary</b> .....	<b>iii</b>
<b>1. Introduction</b> .....	<b>1</b>
1.1. Purpose of Evaluation .....	1
1.2. Pre-Removal Risk Assessment Program .....	1
1.2.1. Program Description .....	1
1.2.2. Program Delivery and Stakeholders .....	2
1.2.3. Resources for the Program .....	3
<b>2. Methodology</b> .....	<b>4</b>
2.1. Evaluation Approach and Scope .....	4
2.2. Evaluation Issues and Questions .....	4
2.3. Data Collection Methods .....	5
2.4. Limitations and Considerations .....	5
<b>3. Evaluation Findings - Relevance</b> .....	<b>6</b>
<b>4. Evaluation Findings - Performance</b> .....	<b>7</b>
4.1. Changes to the PRRA Program .....	7
4.2. Impact of the Reforms on the PRRA Program.....	8
4.2.1. Impact of the Backlog Reduction Strategy on PRRA Inventory.....	8
4.2.2. Impact of Centralization of the PRRA Program.....	9
4.2.3. Impact of the PRRA Bar on the Program .....	11
4.2.4. Effectiveness of the PRRA Bar .....	17
<b>5. Conclusions</b> .....	<b>19</b>

## List of tables

Table 1.1: IRCC's Actual Expenditures for the Pre-Removal Risk Assessment Program (Fiscal year 2009/10 to 2014/15).....	3
Table 2.1: Summary of the Lines of Evidence Used in the Evaluation.....	5
Table 4.1: Percent of Total PRRA Applications Received From Failed Refugee Claimants and Non-refugee Claimants (2010-2014) .....	13
Table 4.2: Number and Result of Federal Court Appeals on PRRA Decisions, Pre- and Post-Reform .....	17

## List of figures

Figure 4.1: Number of PRRA Applications in Inventory at Year-End (2007-2014).....	9
Figure 4.2: Number of PRRA Applications Triggered and Received (2007-2014) .....	12
Figure 4.3: Number of Negative RPD Decisions, PRRA Triggers, and PRRA Applications (2010-2014) .....	13
Figure 4.4: PRRA Uptake Rates (2007-2014).....	14
Figure 4.5: Processing Time (in Days) from PRRA Application Date to Decision Date, by Year of Application (2007 - 2014).....	15
Figure 4.6: Acceptance Rates for the PRRA Program (2007-2014).....	16

## List of acronyms

BRO	Backlog Reduction Office
CBSA	Canada Border Services Agency
DCO	Designated Country of Origin
FOSS	Field Operations Support System
FTE	Full-Time Equivalent
H&C	Humanitarian and Compassionate
ICAS	in-Canada Asylum System
IRB	Immigration and Refugee Board
IRCC	Immigration, Refugees and Citizenship Canada
IRPA	Immigration and Refugee Protection Act
NCMS	National Case Management System
NHQ	National Headquarters
PRRA	Pre-Removal Risk Assessment
RAB	Refugee Affairs Branch (IRCC)
RPD	Refugee Protection Division (IRB)
SAP	Systems and Applications in Data Processing software

# Executive summary

## Purpose of the Evaluation

The evaluation of the Pre-Removal Risk Assessment (PRRA) Program was conducted in fulfillment of the 2009 Treasury Board *Policy on Evaluation* to evaluate all direct program spending on a five-year cycle. The period covered was the time since the previous evaluation (2007) to the end of 2014, with the biggest emphasis placed on the period since the implementation of the reforms to the in-Canada asylum system in December 2012.

## The Pre-Removal Risk Assessment Program

Part of Canada's humanitarian tradition is to ensure that individuals being removed from Canada are not returned to a country where they would be in danger or face the risk of persecution. The 2002 *Immigration and Refugee Protection Act* provides that, with certain exceptions, persons in Canada, who are subject to an in-force removal order and who allege risk of torture, risk to life, or risk of cruel treatment or punishment if removed, are eligible to apply for a PRRA. A PRRA is an assessment of an individual's risk that they would face if removed from Canada. As part of the reforms to the in-Canada asylum system, the PRRA program was to be transferred to the Immigration and Refugee Board (IRB) from Immigration, Refugees and Citizenship Canada (IRCC) in December 2014. The transfer of the PRRA function to the IRB was postponed in 2014.

## Evaluation Findings

### *Relevance*

**Finding #1:** Based on Canada's international and legislative obligations related to the principles of *non-refoulement*, there is a continued need to assess risk prior to removal and it is an appropriate federal role to assess this risk.

### *Performance*

**Finding #2:** PRRA program objectives and processes remained largely unchanged since the last evaluation until the implementation of the backlog reduction strategy (2010/11) and the in-Canada asylum system reforms (2012/2013).

**Finding #3:** The implementation of the backlog reduction strategy resulted in a large reduction in the number of cases in the PRRA inventory—from 7,350 cases in 2011 to 2,670 cases in 2012.

**Finding #4:** The centralization of the PRRA program in Backlog Reduction Office-Vancouver contributed to the successful reduction of the PRRA backlog and had a positive impact on communications and coordination within IRCC and between IRCC and the Canada Border Services Agency (CBSA). A few challenges were identified with respect to the centralized approach; however, they have not had a negative impact on the delivery of the program.

**Finding #5:** The decrease in the number of refugee claims received following the reforms and the introduction of the PRRA bar resulted in fewer people being eligible to apply for a PRRA and subsequently fewer PRRA applications were received.

**Finding#6:** The proportion of individuals that applied for a PRRA of those that were eligible varied between 2007 and 2014, although 2014 saw its lowest uptake rate (49.6%) since the implementation

of the program in 2002. Because uptake rates have been variable over time, particularly for failed refugee claimants, the low uptake rate in 2014 cannot be attributed to the PRRA bar.

**Finding#7:** PRRA processing times decreased since the last evaluation and have remained relatively stable between 2009 and 2014.

**Finding#8:** The acceptance rate for PRRA has remained quite low, though following the implementation of the in-Canada asylum system reforms, there was a slight increase in the acceptance rate. It is not possible to determine the extent to which this may be attributable to the reforms.

**Finding#9:** The number and outcomes of Federal Court legal challenges related to PRRA decisions have remained relatively consistent pre- and post-reform to the in-Canada asylum system. Only a small percentage of judicial review decisions were favorable for the claimant pre-and post-reform.

**Finding#10:** The majority of failed refugee claimants who made an asylum claim post-reform (from non-designated countries only) were not removed before the PRRA bar expired, thus limiting its effectiveness.

## Conclusions

As the recommendations for the evaluation of the in-Canada asylums system reforms call for a comprehensive review of key components of the asylum system, the PRRA transfer decision and further improvements to the program can be best considered as part of this review and any revisions. In doing so, the following key considerations for the future management and operation of the PRRA program should be taken into account:

1. Given the connection between the PRRA program and CBSA removals, it is necessary to have effective communication and strong operational coordination between the two organizations responsible for these functions. This will ensure that any operational issues can be effectively addressed. In addition, it will ensure that the number of PRRAs being triggered will be aligned with available resources (namely, decision-makers) and that PRRA decision timelines do not have a negative impact on the removals process.
2. Given the number of asylum claims received increased between 2013 to 2015 (and projected to keep rising), there will likely be a corresponding increase in the number of PRRA applications, which could put further pressures on the system. This, coupled with the high number of claimants who were not removed before their bar expired, will make it necessary to closely monitor the PRRA program and adjust as needed to ensure that sufficient decision-making resources are available to handle potential increases. This will ensure that decisions will be made in a timely fashion, that inventory levels will be maintained at a manageable level, and that PRRA decision timelines will not have a negative impact on removals targets, as established with the in-Canada asylum system reforms..

# 1. Introduction

## 1.1. Purpose of Evaluation

This report presents the results of the evaluation of the Pre-Removal Risk Assessment (PRRA) Program. The evaluation was conducted in fulfilment of the 2009 Treasury Board *Policy on Evaluation* to evaluate all direct program spending on a five-year cycle and was conducted by IRCC's Research and Evaluation Branch between February 2015 and December 2015. The evaluation was conducted concurrently to the evaluation of the In-Canada asylum system (ICAS) reforms to ensure complementarity between the two evaluations. The report is organized in five sections:

- Section 1 presents context and a description of the PRRA Program;
- Section 2 presents the methodology for the evaluation and strengths and limitations;
- Sections 3 and 4 present the findings from the evaluation; and
- Section 5 presents the conclusions.

## 1.2. Pre-Removal Risk Assessment Program

### 1.2.1. Program Description

Part of Canada's humanitarian tradition is to ensure that individuals being removed from Canada are not returned to a country where they would be in danger or face the risk of persecution. The 2002 *Immigration and Refugee Protection Act* (IRPA) provides that, with certain exceptions<sup>1</sup>, persons in Canada, who are subject to an in-force removal order and who allege risk of torture, risk to life, or risk of cruel treatment or punishment if removed, are eligible to apply for a PRRA.

The overall objectives of PRRA are to ensure that protection is granted to those in need, fulfill Canada's international obligations, and adhere to the principle of *non-refoulement*.<sup>2</sup> The two main categories of eligible PRRA applicants are failed refugee claimants<sup>3</sup> and non-refugee claimants.<sup>4</sup> A PRRA is an assessment of an individual's risk that they would face if removed from Canada. Most PRRA applications are assessed with respect to:

- whether the applicant's return to their country would subject them personally to danger of torture; or a risk to life, or of cruel and unusual treatment or punishment; or
- whether the applicant has a well-founded fear of persecution in their home country (country of nationality or, if they do not have one, the country where they usually lived) based on their race, religion, nationality, political opinion or membership in a particular social group; and because of this fear, they are unwilling or unable to return to or seek protection in that country.

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<sup>1</sup> The following individuals are not eligible to apply for a PRRA: those subject to extradition; those ineligible for a hearing at the IRB because they came to Canada from a safe third country; a repeat refugee protection claimant who is being removed from Canada less than six months after having previously left; an individual already recognized as a protected person; or an individual recognized as a Convention Refugee by a country to which they can return.

<sup>2</sup> The principle of *non-refoulement* holds that persons should not be removed from Canada to a country where they would be at risk of persecution, torture, risk to life or risk of cruel and unusual treatment or punishment.

<sup>3</sup> Failed refugee claimants are those whose claim for refugee protection has been denied by the Immigration and Refugee Board (IRB) and who are applying for a PRRA based on a change in country conditions or circumstances.

<sup>4</sup> Non-refugee claimants are those who request protection for the first time (based on alleged risk of return) after being ordered removed.

The implementation of the ICAS reforms in December 2012 introduced a bar on PRRA for failed refugee claimants. Failed claimants from designated countries of origin (DCO)<sup>5</sup> are subject to a three-year bar, meaning these individuals can only apply for a PRRA if they have not been removed three years following the receipt of their final IRB decision. For non-DCO claimants, the bar on applying for a PRRA is one year following an individual's final IRB decision. The PRRA bar was also applied to any PRRA application awaiting a decision, for which a previous IRB or PRRA decision had been made between August 15, 2011 to August 14, 2012, and to which a country exemption did not apply.<sup>6</sup>

After an individual is notified about his/her eligibility to apply for a PRRA (i.e., PRRA is triggered), the individual has 15 days to submit an application. An applicant has an additional 15 days to provide submission material in support of the application. An IRCC officer assesses the application and renders a decision (a positive or negative PRRA). An applicant may request a judicial review of a negative PRRA decision. Pending any appeals or other recourses, applicants who receive a negative PRRA decision are scheduled for removal from Canada. Individuals who receive a positive PRRA decision on a regular PRRA receive protected person status, which allows them to apply for permanent residence in Canada.<sup>7</sup>

### **1.2.2. Program Delivery and Stakeholders**

Policy development and direction for the PRRA program is the responsibility of IRCC's Refugees Affairs Branch. Operational guidance and delivery of the program is managed by Operational Management and Coordination Branch. The PRRA program is delivered via IRCC's four backlog reduction offices (BROs) in Vancouver, Toronto, Niagara Falls, and Montreal, with the responsibility for application intake, triage and file distribution centralized in BRO-Vancouver. An Assistant Director of Operations, located in BRO-Vancouver is responsible for overseeing the PRRA network. Each BRO has managers that are responsible for the PRRA program in the respective BROs.

The PRRA program is delivered in cooperation with the Canada Border Services Agency (CBSA), which is responsible for informing individuals about their eligibility to apply for a PRRA as part of its removal process. It is also responsible for delivering the PRRA decision to the applicant.<sup>8</sup> IRCC and the CBSA coordinate both at the National Headquarters (NHQ) and regional levels to plan and discuss the number of PRRAs that should be triggered<sup>9</sup>, as well as other operational issues.

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<sup>5</sup> Designated countries of origin are countries that respect human rights and offer state protection. Nationals of designated countries fall under a differentiated process whereby they have their claims heard in a shorter timeframe, do not benefit from an automatic stay of removal if they seek leave for judicial review at the Federal Court, and cannot obtain work permits.

<sup>6</sup> Individuals from certain countries and who had a final decision from the IRB are exempt from the bar.

<sup>7</sup> Those who are found to be criminally inadmissible to Canada, as defined under section 112(3) of the Act, have restricted access to protection. They receive a limited, or restricted, PRRA that only reviews against concerns set out in section 97 of the Act. If the outcome of this assessment is positive, they do not receive permanent residence; instead, their removal is stayed until conditions in the country to which they will be removed have improved.

<sup>8</sup> The decision is normally delivered in person to the failed applicant by CBSA removals officers.

<sup>9</sup> The CBSA is responsible for triggering a PRRA (i.e., notifying an individual of his/her eligibility to apply) as part of the removals process. If the individual applies for a PRRA, the CBSA cannot enforce the removal until the PRRA decision is rendered. Therefore IRCC and the CBSA coordinate to ensure the number of PRRAs triggered is in-line with IRCC's decision-making capacity.



### 1.2.3. Resources for the Program

From fiscal years 2009/10 to 2014/15, IRCC's expenditures for the PRRA program ranged from \$6.3 million per fiscal year (and 87 FTEs) to \$12.8 million (and 167 FTEs). The increase in funds expended in 2011/12 and 2012/13 is as a result of the implementation of the backlog reduction strategy<sup>10</sup> (Table 1.1). Over this six-year time period, the total actual expenditures for the PRRA program was \$54 million.

**Table 1.1: IRCC's Actual Expenditures for the Pre-Removal Risk Assessment Program (Fiscal year 2009/10 to 2014/15)**

<b>Costs</b>	<b>FY 2009/2010</b>	<b>FY 2010/2011</b>	<b>FY 2011/2012</b>	<b>FY 2012/2013</b>	<b>FY 2013/2014</b>	<b>FY 2014/2015</b>
Salary	\$6,759,863	\$7,069,620	\$10,851,296	\$9,888,692	\$6,018,645	\$7,644,051
Non-Salary*	\$356,537	\$561,286	\$1,982,454	\$494,447	\$292,502	\$1,817,439
<b>Total</b>	<b>\$7,116,400</b>	<b>\$7,630,906</b>	<b>\$12,833,750</b>	<b>\$10,383,139</b>	<b>\$6,311,147</b>	<b>\$9,461,490</b>
<b>Total FTEs</b>	<b>104</b>	<b>106</b>	<b>167</b>	<b>146</b>	<b>87</b>	<b>112</b>

\*Non-salary includes centrally managed costs

Source: Systems and Applications in Data Processing (SAP).

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<sup>10</sup> For more on this, see Section 4.1.

## 2. Methodology

### 2.1. Evaluation Approach and Scope

The evaluation was considered small-scale, with a low relative level of effort based on the following factors: that a comprehensive evaluation of the PRRA Program was completed in 2007/08<sup>11</sup>; and that the PRRA program transfer was under discussion at the time of this report. As part of the ICAS reforms, the PRRA program was to be transferred to the IRB in December 2014. The transfer of the PRRA function to the IRB was postponed in 2014. A decision on the transfer will be made in 2016/17, following the results of the evaluation of ICAS reforms and further analysis.

The scope of the evaluation did not include an assessment of the quality or consistency of PRRA decision-making. It also did not include an assessment of the transfer of the PRRA program to the IRB.

The period covered was the time since the previous evaluation (2007) to the end of 2014, with the biggest emphasis placed on the period since the implementation of the ICAS reforms in December 2012. The terms of reference for the evaluation were approved by IRCC's Departmental Evaluation Committee in October 2014.<sup>12</sup>

### 2.2. Evaluation Issues and Questions

The evaluation of the PRRA program was conducted as per the requirements of the Treasury Board Secretariat's *Directive on the Evaluation Function*<sup>13</sup> and examined issues of relevance and performance. Given the intent to transfer PRRA to the IRB, the evaluation examined relevance and performance in terms of the continued need for the program, the implementation of measures to address issues identified in the 2007/08 evaluation, and the impact of the ICAS reforms on PRRA through the following evaluation questions:

- Is there a continued need and role for the federal government to assess risk prior to removal of an individual from Canada?
- What changes have been made to PRRA processes since the last evaluation and to what extent were those changes designed to address issues identified in the evaluation?
- What impacts have the ICAS reforms had on the efficiency of the PRRA Program and the achievement of Program outcomes?

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<sup>11</sup> See: [www.cic.gc.ca/english/resources/evaluation/prra/section1.asp](http://www.cic.gc.ca/english/resources/evaluation/prra/section1.asp).

<sup>12</sup> The terms of reference for the PRRA evaluation were included as part of the terms of reference for the evaluation of the in-Canada asylum system reforms.

<sup>13</sup> See: [www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=15681](http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=15681).

## 2.3. Data Collection Methods

Data collection for this evaluation took place between February 2015 and December 2015, and included multiple lines of evidence briefly described in Table 2.1.

**Table 2.1: Summary of the Lines of Evidence Used in the Evaluation**

Line of Evidence	Description
Document review	A review of relevant documentation was focused primarily on assessing Canada's domestic and international commitments.
Site visits	Site visits were conducted in Montreal, Toronto/Niagara Falls, and Vancouver and included a walk-through of the PRRA in-take process in BOR-Vancouver and interviews.
Interviews	Eighteen (18) interviews were conducted with representatives of IRCC and the CBSA, both at NHQ and in the regions.
Administrative data analysis	Available administrative data from the National Case Management System (NCMS) and the Field Operations Support System (FOSS) were analyzed to assess the performance of the PRRA program and the impact of the ICAS reforms on the program.
Financial data analysis	Financial data provided by IRCC's Financial Management Branch, obtained from the Integrated Financial and Material System using the Systems and Applications in Data Processing software (SAP) were analyzed to examine FTEs, salary and non-salary expenditures for the PRRA program.

## 2.4. Limitations and Considerations

There are two limitations to note with respect to the administrative data:

- Due to issues uncovered with respect to the data used in the previous evaluation of PRRA<sup>14</sup>, the current evaluation was unable to compare certain administrative data with the data presented in the previous evaluation. Thus, the current evaluation focused on the time period from 2007 to 2014.
- The evaluation was limited in the extent to which it could analyze the impact of the PRRA bar, as not enough time has passed since the coming into force of the reforms (i.e., the bar would not yet be expired for individuals from DCOs, who have a three-year bar).

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<sup>14</sup> The previous evaluation drew upon data obtained from the NCMS. However, a misalignment between fields in the NCMS and FOSS databases meant that some PRRA applicants were identified as non-refugee claimants, rather than failed refugee claimants. The current evaluation uses a data extract drawn from NCMS and cross-referenced to FOSS, to ensure an accurate count and categorization of PRRA cases.

### 3. Evaluation Findings - Relevance

**Finding:** Based on Canada's international and legislative obligations related to the principles of non-refoulement, there is a continued need to assess risk prior to removal and it is an appropriate federal role to assess this risk.

The previous evaluation of the PRRA program found that it was needed and consistent with Canada's international obligations with respect to the principle of *non-refoulement*. These obligations have not changed since 2007/08. Canada is a party to three refugee-related international human rights instruments.

1. The 1951 *Convention Relating to the Status of Refugees*<sup>15</sup>: states that "no Contracting State shall expel or return (refouler) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion" (Article 33(1)).
2. The *International Covenant on Civil and Political Rights*<sup>16</sup>: states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" (Article 7).
3. The *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*<sup>17</sup>: states that "no State Party shall expel, return (refouler) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture" (Article 3(1)).

Certain provisions of these Conventions were first incorporated in the *Immigration Act of Canada* in 1976, with additional provisions incorporated into IRPA in 2002. The principle of *non-refoulement* is incorporated in section 115(1) of IRPA, which reiterates that "a protected person or a person who is recognized as a Convention refugee by another country to which the person may be returned shall not be removed from Canada to a country where they would be at risk of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion or at risk of torture or cruel and unusual treatment or punishment."

In summary, the PRRA program supports Canada's international obligations to ensure that persons are not removed to a country in respect of which they have a well founded fear of persecution; or where they would be in danger of torture or at risk of cruel and unusual treatment or punishment.

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<sup>15</sup> See: [www.unhcr.org/3b66c2aa10.html](http://www.unhcr.org/3b66c2aa10.html).

<sup>16</sup> See: [www.ohchr.org/en/professionalinterest/pages/ccpr.aspx](http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx).

<sup>17</sup> See: [www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx).

## 4. Evaluation Findings - Performance

The performance of the PRRA program was assessed by examining what changes had been made to the PRRA processes since the last evaluation and the impact of the ICAS reforms on the program.

### 4.1. Changes to the PRRA Program

**Finding:** PRRA program objectives and processes remained largely unchanged since the last evaluation until the implementation of the backlog reduction strategy (2010/11) and the in-Canada asylum system reforms (2012/2013).

The PRRA program did not change significantly since the last evaluation in terms of its objectives, application processes, and decision-making processes. Additionally, no significant changes were made in response to the previous evaluation. There were some key initiatives implemented, beginning in 2010/11 that had an impact on the PRRA program: the implementation of the backlog reduction strategy (and subsequent centralization of the PRRA program) and the imposition of the PRRA bar.

#### *Backlog Reduction Strategy*

To prepare for the implementation of the ICAS reforms, a backlog reduction strategy was implemented in (2010/11-2012/13) with the objective of reducing current backlogs in the ICAS as much as possible before the reforms came into force. Specifically, funding was allocated to reduce backlogs of: claims awaiting a decision from the Refugee Protection Division (RPD) of the IRB, removals at the CBSA, and PRRA and humanitarian and compassionate (H&C) applications awaiting decisions from IRCC<sup>18</sup>. Resources for the PRRA program increased from \$7.6 million in 2010/11 to \$12.8 million in 2011/12 and FTEs increased from 106 in 2010/11 to 167 in 2011/12.

For PRRA, the key objective of the strategy was to reduce the backlog in preparation for the planned transfer of the program to the IRB. To achieve this, in addition to the increased funding, IRCC implemented several administrative measures to streamline the PRRA process and reduce the backlog in the most efficient manner as possible. IRCC created four backlog reduction offices (BROs), three of which were established in April 2011 in Vancouver, Niagara Falls, and Montreal, and a fourth in Toronto in September 2012<sup>19</sup> and the responsibility for PRRA was transferred from the six PRRA offices<sup>20</sup> to the BROs.<sup>21</sup> In addition, intake for the PRRA program was centralized in BRO-Vancouver, which assumed responsibility for: receiving PRRA applications; reviewing the applications for completeness and liaising with the applicant, as necessary; creating the application file; triaging the file; distributing files to other BROs for decision-making; and liaising with the CBSA regional offices, as needed. All BROs are responsible for making decisions on PRRA applications. Prior to the creation of the BROs, each PRRA office received PRRA applications; applied its own triage process; and interacted with the applicant, as necessary.

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<sup>18</sup> A total of \$136.2 million over 5 years, with \$3.4 million in ongoing funding, was allocated for backlog reduction across multiple federal organizations.

<sup>19</sup> The BROs were established on a temporary basis in support of the backlog reduction strategy.

<sup>20</sup> PRRA offices were located in Vancouver, Calgary, Toronto, Niagara Falls, Montreal, and Halifax.

<sup>21</sup> The responsibility for H&C cases was also transferred to the BROs at the same time.

### *Introduction of the Bar*

As noted, the implementation of the ICAS reforms included a one- or three-year bar on PRRA applications following a claimant's last IRB decision.<sup>22</sup> The 1-year PRRA bar was imposed for non-DCO claimants and the 3-year bar for DCO claimants. Individuals from certain countries, who had received a final IRB or PRRA decision between specific dates are exempt from the bar.<sup>23</sup> The purpose of the PRRA bar was to reduce the number of applications from individuals who would apply as a means to delay removal and thus facilitate removals in a timely manner, which were issues identified in the previous evaluation. The last evaluation found the number of PRRA applications had been growing<sup>24</sup>, as was the uptake rate<sup>25</sup> (i.e., the proportion of eligible individuals that applied) and noted that the program had evolved from its original intent of providing a 'safety net', to providing another step in the system. In addition, the previous evaluation found that the PRRA program had negatively impacted the removals process by increasing the time it took to remove an individual<sup>26</sup>.

## **4.2. Impact of the Reforms on the PRRA Program**

The evaluation examined the impact of the reforms on the PRRA program in terms of the:

- impact of the backlog reduction strategy on inventory levels (4.2.1);
- impact of centralization on the backlog reduction and communication and coordination (4.2.2);
- impact of the bar on the program with respect to number of applications received and uptake rates, processing times, acceptance rates, and legal challenges (4.2.3); and
- effectiveness of the PRRA bar (4.2.4).

### **4.2.1. Impact of the Backlog Reduction Strategy on PRRA Inventory**

**Finding:** The implementation of the backlog reduction strategy resulted in a large reduction in the number of cases in the PRRA inventory—from 7,350 cases in 2011 to 2,670 cases in 2012.

A backlog reduction strategy was implemented beginning in 2010/11, which aimed in part to reduce the existing PRRA inventory before its transfer to the IRB. As shown in Figure 4.1, the number of applications in the PRRA inventory has fluctuated since 2007, which can be the result of a number of factors such as variations in the number of asylum claims received<sup>27</sup> and the CBSA's removals

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<sup>22</sup> The 1-year bar came into effect upon royal assent of the Protecting Canada's Immigration System Act on June 28, 2012. The 3-year bar came into effect on December 15, 2012.

<sup>23</sup> For country exemptions and date information see: [www.cic.gc.ca/english/refugees/inside/prra/exemptions.asp](http://www.cic.gc.ca/english/refugees/inside/prra/exemptions.asp).

<sup>24</sup> The number of PRRA applications increased from 5,303 in 2003 to 12,498 in 2006—an 85% increase.

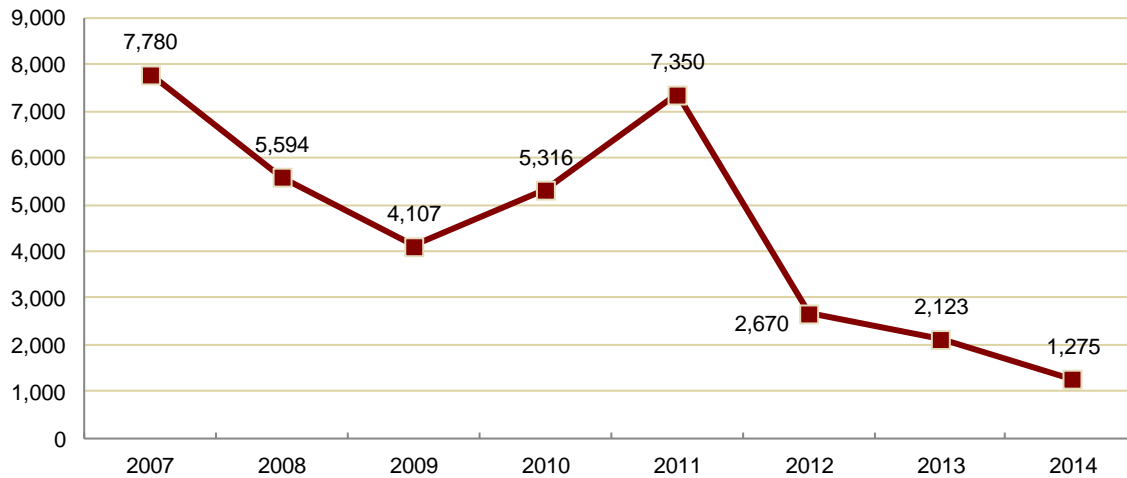
<sup>25</sup> In 2003, of the 11,968 individuals eligible to apply for a PRRA, 5,303 submitted an application—a 44.3% uptake rate. By 2006, of the 16,086 individuals eligible, 12,498 applied—a 77.7% uptake rate.

<sup>26</sup> The evaluation found that the length of time from an effective removal order to confirmed departure increased from approximately 437 days prior to 2002 to 611 days post 2002. The time required to remove individuals who did not submit a PRRA application was about 200 days.

<sup>27</sup> Given that 90% of PRRA applications are failed refugee claimants, fluctuations in the number of asylum claims received can result in fluctuations in the number of PRRA applications received.

priorities and targets<sup>28</sup>. These data showed that, while the inventory had decreased to just over 4,100 in 2009, it had grown to over 7,300 by 2011.

**Figure 4.1: Number of PRRA Applications in Inventory at Year-End (2007-2014)**



Source: Operations Performance Management Branch.

Following the first year of implementation of the backlog reduction strategy, there was a sharp decline in the number of PRRA applications in inventory, down to just over 2,600 in 2012. The low number of asylum claims received following the implementation of the ICAS reforms in 2012 helped the program reach an even lower inventory in 2013 and 2014, with an inventory of 1,275 applications at the end of 2014<sup>29</sup>. Note that the majority of the cases in inventory are held at the BRO-Vancouver office, due to the fact that it receives, triages, and distributes all PRRA applications.

In addition, financial information showed the PRRA program received additional resources in 2011/12 (an additional \$5M and 60 more FTEs from the previous year) to create the BRO network and implement the backlog reduction strategy. As a result, more PRRA decisions were rendered, which contributed to the reduction of the PRRA inventory.

#### 4.2.2. Impact of Centralization of the PRRA Program

**Finding:** The centralization of the PRRA program in Backlog Reduction Office-Vancouver contributed to the successful reduction of the PRRA backlog and had a positive impact on communications and coordination within IRCC and between IRCC and the CBSA. A few challenges were identified with respect to the centralized approach; however, they have not had a negative impact on the delivery of the program.

##### *Impact of Centralization on Backlog Reduction*

From a CBSA perspective, the centralization of the PRRA program did not have any impact on the delivery of its components of the PRRA program, and interviewees were positive about the new structure, noting it was working well and was efficient. From an IRCC perspective, the majority of interviewees at NHQ and in BROs were also very positive with respect to the impact of

<sup>28</sup> IRCC is dependent on the CBSA to trigger PRRA's; therefore, any changes to removals priorities and targets can have an impact on the number of PRRA's received.

<sup>29</sup> IRCC aims to have a working inventory of no more than PRRA 1,000 applications.

centralization. The biggest advantage cited was the ability to better manage the PRRA inventory in terms of: improved coordination of files, better knowledge of the inventory, and better ability to distribute cases based on workload and availability in each of the BROs. Other advantages of centralization cited by IRCC representatives included:

1. triaging cases before assignment to an officer ensures they are "decision-ready" and decision-makers do not have to liaise with the applicant, which allows decision-makers to focus their efforts on decision-making process;
2. applicants can be batched (e.g., by country) to allow for country specialization, which reduces the extent of country of origin information research needed; and
3. it facilitates the creation of PRRA standard operating procedures and allows for the application of nationally consistent service standards and decision making.

In addition, as the responsibility for humanitarian and compassionate cases was also transferred to the BROs, IRCC interviewees noted that the centralization of the two programs allowed for flexibility to shift resources from one program to the other, based on changing needs and emerging priorities. Overall, IRCC interviewees agreed that the centralization of the PRRA program created efficiencies and supported the reduction of the large inventory of PRRA cases.

### ***Impact of Centralization on Communications and Coordination***

The previous evaluation of PRRA found that there was inadequate communication between PRRA offices and IRCC NHQ, and between IRCC and the CBSA, which led to challenges in managing the PRRA inventory effectively. The current evaluation found that the centralization of the program resulted in a more coordinated approach to communication within IRCC, with NHQ liaising primarily with the Assistant Director responsible for PRRA in BRO-Vancouver, who also manages the program across the BRO network. Interviewees from the BROs and NHQ were very positive with respect to coordination and communication for the PRRA program, reporting it to be very effective. No improvements were suggested in this respect.

Communication and coordination between IRCC and the CBSA also improved with centralization of the PRRA program. Overall, interviewees reported good working relationships and good information exchange between IRCC and the CBSA, both in the regions<sup>30</sup> and at NHQ (although mostly informal). In terms of improvements, IRCC interviewees noted that the CBSA does not always provide the thin files<sup>31</sup> to IRCC in a timely manner. CBSA interviewees acknowledged that thin files are not always prepared in a timely manner, which can be due to certain offices batching the thin files before sending them to the IRCC or a lack of clerical staff to prepare the thin file, which is particularly an issue in small offices where there are little or no clerical staff. IRCC interviewees also raised concerns that the CBSA does not always deliver decisions in a timely manner; however, there were no data available to assess this timeline, at different times throughout the year.

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<sup>30</sup> CBSA regional interviewees indicated that they now have only one contact to liaise with at IRCC (BRO-Vancouver) and reported an effective working relationship in that respect. CBSA regional interviewees noted that there is now very little need to communicate with the other BROs, although they will do so if necessary.

<sup>31</sup> Once an individual has submitted a PRRA application, the CBSA creates a paper file containing key information documents (e.g., RPD decision; RAD decision, if applicable; basis of claim form) and sends it to IRCC. The CBSA aims to send the thin file to IRCC within one week.



From an NHQ perspective, IRCC and the CBSA coordinate with respect to targets (i.e., the number of PRRAs the CBSA will trigger), but also to discuss any operational issues that cannot be solved at the regional level. This is done via monthly director-level meetings and other ad hoc communication as needed. The triggering process is a key component to the success of both the PRRRA program and the CBSA's removals program, thus it is important to have good collaboration between the two organizations in this respect to ensure that the CBSA's removals priorities and targets are in-line with IRCC's PRRRA processing capacity. While IRCC and CBSA interviewees at the NHQ-level reported good working relationships and effective discussions around the triggering process, both organizations suggested that it would be useful to have more formal opportunities for discussing issues related to PRRRA (e.g., more regular face-to-face meetings). In particular, the CBSA noted that it would be beneficial to have more consistent operational planning around the trigger process, as it has experienced requests from IRCC to trigger more or fewer PRRAs.

### *Challenges with Centralization*

IRCC interviewees highlighted three key challenges with respect to the centralization of the program, though they were not found to have a negative impact on the delivery of the PRRRA program.

- The temporary funding of the BROs and the delay in the transfer of PRRRA has resulted in challenges in retaining and training staff.
- Due to the large geographic region and time differences involved, it can be challenging to coordinate communication across the BRO network.
- BROs are dependent on BRO-Vancouver to receive PRRRA cases, and a few BROs felt case distribution could be done better to ensure that there are enough cases in inventory in each of the offices.

### **4.2.3. Impact of the PRRRA Bar on the Program**

#### *Number of People Eligible to Apply for PRRRA and Number of PRRRA Applications*

**Finding:** The decrease in the number of refugee claims received following the reforms and the introduction of the PRRRA bar resulted in fewer people being eligible to apply for a PRRRA and subsequently fewer PRRRA applications were received.

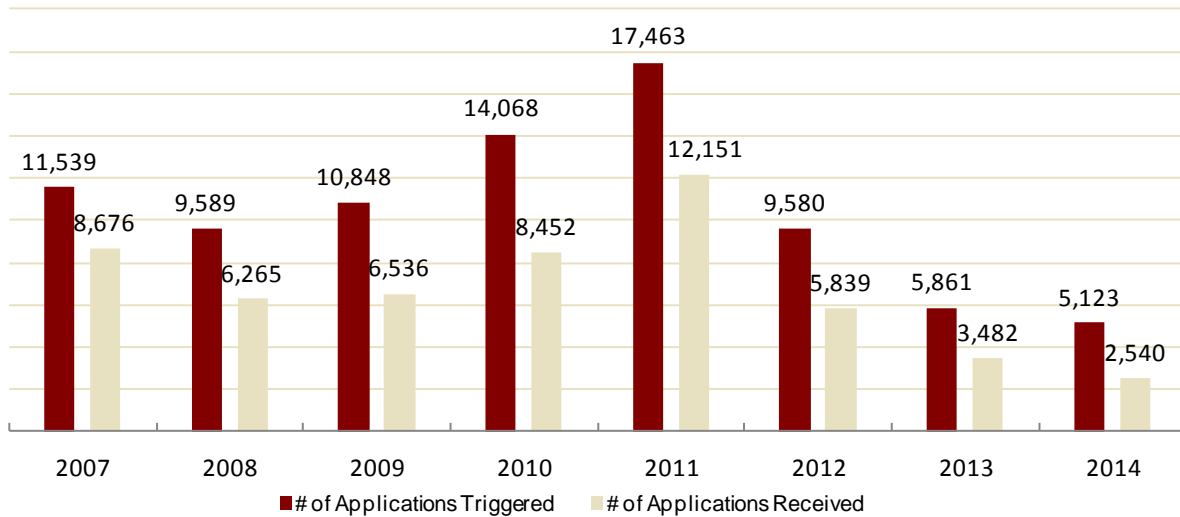
Historically, failed refugee claimants comprised the largest majority of PRRRA applications submitted. Between 2007 and 2012, 90.1% of applications were from failed claimants. Thus, the implementation of the ICAS reforms and the subsequent significant decrease in the number of refugee claims received- from 20,427 claims in 2012 to 10,322 claims in 2013 and 13,410 claims in 2014-had an impact on the PRRRA program. The large decrease in the number of claims received resulted in a decrease in the number of claimants who received a negative decision from the IRB<sup>32</sup> and thus there were fewer individuals eligible to apply for a PRRRA in those years. In addition, with the implementation of the PRRRA bar, fewer failed refugee claimants were eligible to apply for PRRRA in the short term.<sup>33</sup>

<sup>32</sup> There were 20,297 negative RPD decisions rendered in 2011, compared to 7,597 negative RPD decisions in 2014.

<sup>33</sup> These failed claimants were ineligible to apply for a PRRRA for either one or three years following their final IRB decision, depending on whether they were from a DCO or a non-DCO.

The lower number of failed refugee claimants receiving a negative decision subsequently reduced the number of failed claimants requiring removal and thus, as shown in Figure 4.2, the number of PRRAs triggered as a result of the CBSA initiating the removals process has decreased considerably, from a high of 17,463 in 2011 to 5,123 in 2014.<sup>34</sup> Similarly, the number of applications received decreased substantially, from a high of 12,151 in 2011 to 2,540 in 2014.

**Figure 4.2: Number of PRRAs Applications Triggered and Received (2007-2014)**

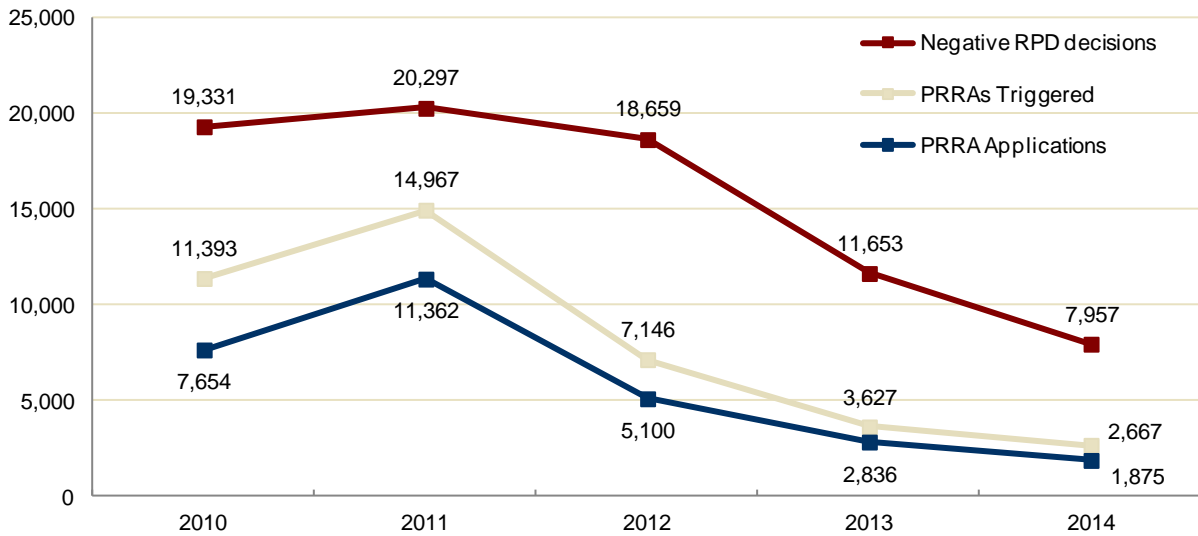


Source: Operations Performance Management Branch.

As shown in Figure 4.3, the number of PRRAs applications received largely corresponds to the number of negative RPD decisions rendered and the number of PRRAs that are then triggered by the CBSA.

<sup>34</sup> These data include both failed refugee claimants and non-refugee claimants who had an enforceable removal order against them.

**Figure 4.3: Number of Negative RPD Decisions, PRRA Triggers, and PRRA Applications (2010-2014)**



Source: Operations Performance Management Branch.

The impact of the bar on the PRRA program is also seen in the change in the proportion of applications from failed refugee claimants and non-refugee claimants. While failed refugee claimants continue to account for majority of PRRA applications, the proportion of applications from those claimants decreased, from 93.5% in 2011 to 73.8% in 2014 (Table 4.1).

**Table 4.1: Percent of Total PRRA Applications Received From Failed Refugee Claimants and Non-refugee Claimants (2010-2014)**

Year	Total Applications Received	Failed Refugee Claimants		Non-refugee Claimants	
		Number of Applications Received	Percent of Applications Received	Number of Applications Received	Percent of Applications Received
2010	8,452	7,654	90.6%	798	9.4%
2011	12,151	11,362	93.5%	789	6.5%
2012	5,839	5,100	87.3%	739	12.7%
2013	3,482	2,836	81.4%	646	18.6%
2014	2,540	1,875	73.8%	665	26.2%
<b>Total</b>	<b>32,464</b>	<b>28,827</b>	<b>88.8%</b>	<b>3,637</b>	<b>11.2%</b>

Source: Operations Performance Management Branch.

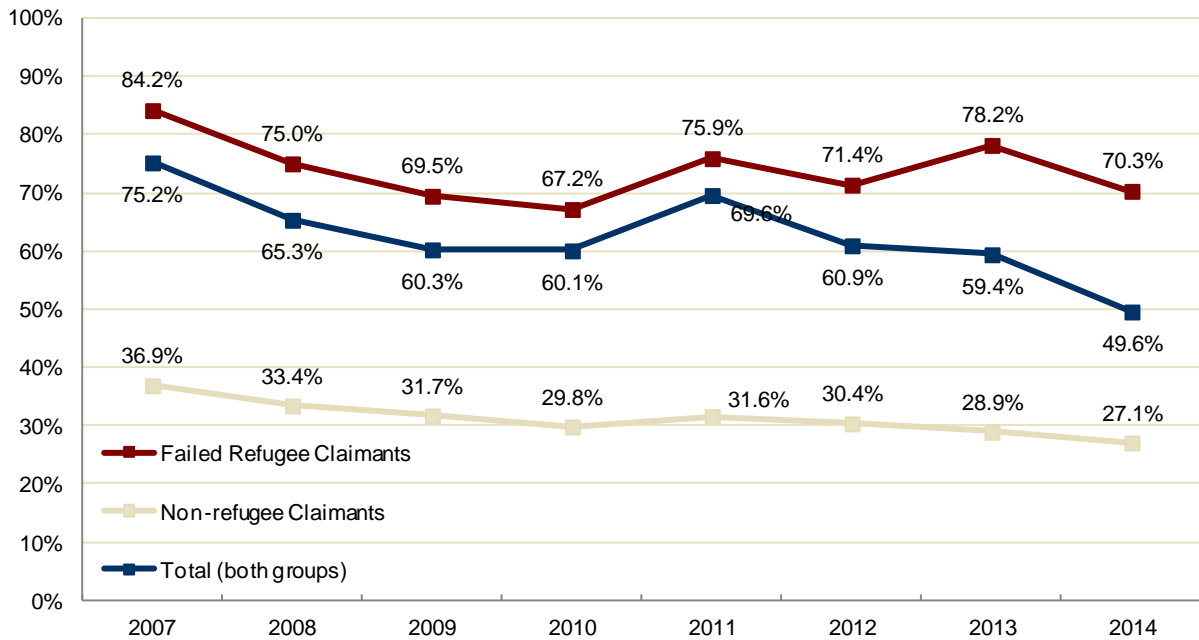
### *Use of the PRRA Program*

**Finding:** The proportion of individuals that applied for a PRRA of those that were eligible varied between 2007 and 2014, although 2014 saw its lowest uptake rate (49.6%) since the implementation of the program in 2002. Because uptake rates have been variable over time, particularly for failed refugee claimants, the low uptake rate in 2014 cannot be attributed to the PRRA bar.

One of the key findings from the previous evaluation was that the program had evolved from its original intent of providing a 'safety net' for migrants requiring removal, to providing failed asylum seekers one more step in the asylum system, evolving into a de facto appeal mechanism. The

evaluation showed that, by 2006, the proportion of eligible individuals who applied for the PRRA program (i.e., the uptake rate) had grown to 77.7%. The current evaluation showed that there has been some variation in the uptake rate between 2007 and 2014, although 2014 saw the lowest uptake rate for the program, at 49.6% (Figure 4.4). In looking at the data by failed refugee claimants and non-refugee claimants, it was observed that the uptake rate for failed claimants is higher than non-refugee claimants and is also more variable. Due to this variability, no conclusions can be drawn with respect to the impact of the PRRA bar on uptake rates.

**Figure 4.4: PRRA Uptake Rates (2007-2014)**



Source: Operations Performance Management Branch.

### *PRRA Processing Times*

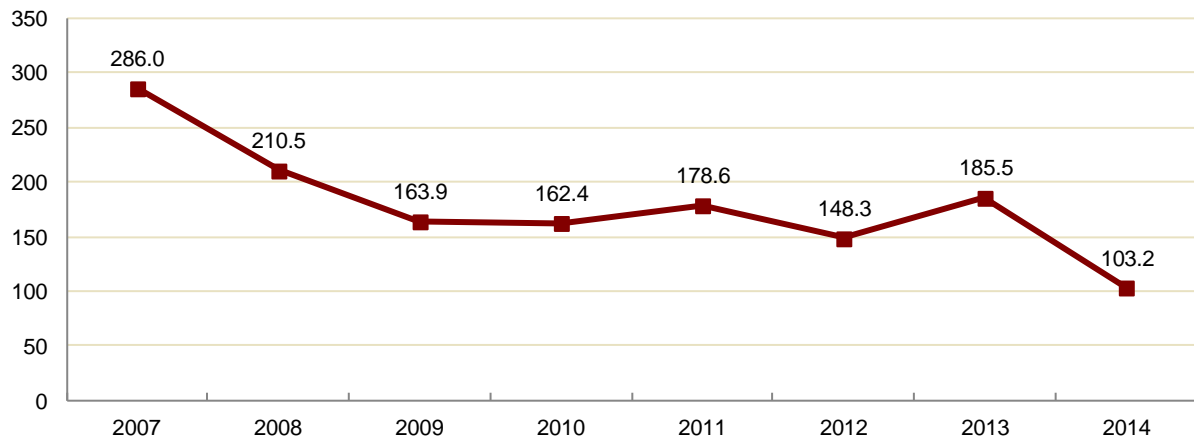
**Finding:** PRRA processing times decreased since the last evaluation and have remained relatively stable over between 2009 and 2014.

The average processing time for a PRRA application<sup>35</sup> decreased in the years following the last evaluation—from 286 days in 2007 to 103 days in 2014 (Figure 4.5). The slight decrease in average processing times in 2012 is likely attributable to the backlog reduction strategy, which increased resources for processing PRRA applications and to reduce the backlog. The increase in average processing time (to 185.5 days) in 2013 is likely reflective of the fact that the funding for the program decreased in that year, as the backlog reduction strategy initiative ended. The average processing time in 2014 was 103 days; however, as cases currently pending decision are finalized, these results may change (especially for individuals applying in recent years).

<sup>35</sup> Processing time was calculated from date of the PRRA application to the date of the decision and is based on the year in which the PRRA application was made. Thus, as the BROs made decisions on older cases from the backlog, processing times appeared to increase.

The data showed that processing times differed across the BRO network. On average, BRO-Vancouver processed decisions more quickly than the three other BROs. This is likely due to the fact that BRO-Vancouver maintains the bulk of the PRRA applications in inventory and can process cases immediately as availability allows, while the other offices must wait for applications to be transferred from BRO-Vancouver via courier. Additionally, while other BROs work from older, existing inventories, BRO-Vancouver has a large inventory of recent cases, and also processes all detained priority PRRA applications. Resourcing could also have an impact of processing times, as BRO-Vancouver has more decision-makers and support staff than other BROs

**Figure 4.5: Processing Time (in Days) from PRRA Application Date to Decision Date, by Year of Application (2007 - 2014)**



Source: Operations Performance Management Branch.

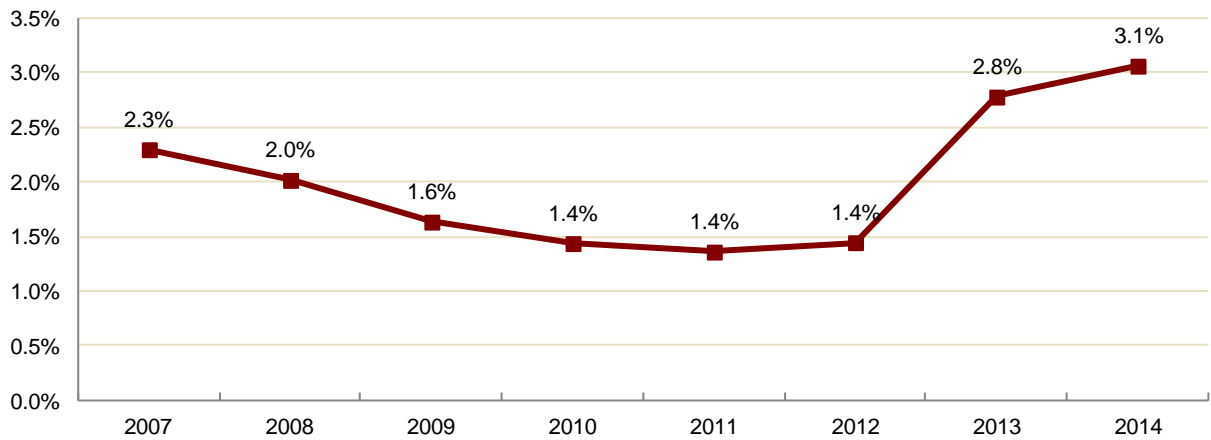
### *PRRA Acceptance Rates*

**Finding:** The acceptance rate for PRRA has remained quite low, though following the implementation of the ICAS reforms, there was a slight increase in the acceptance rate. It is not possible to determine the extent to which this may be attributable to the reforms.

Historically, the acceptance rate<sup>36</sup> for the PRRA program has been low, and remained under 2.3% between 2008 and 2012 (Figure 4.6). There was a slight increase in the rate, to 2.8% in 2013 and 3.1% in 2014, which coincides with the implementation of the ICAS reforms and the PRRA bar. The ICAS reforms aimed to improve the integrity of the system, which included reducing the number of unfounded claims and restricting the use of recourse mechanisms. Given that the reforms have only been in place for two years, it is too soon to determine whether the increase in acceptance rates is a trend. In addition, given that each PRRA application is assessed on its own merits, the evaluation was not able to attribute the changes in acceptance rates to the ICAS reforms or to the PRRA bar.

<sup>36</sup> The acceptance rate is the proportion of individuals that received a positive PRRA decision.

**Figure 4.6: Acceptance Rates for the PRRA Program (2007-2014)**



Source: Operations Performance Management Branch.

### *Legal Challenges to PRRA Decisions*

**Finding:** The number and outcomes of Federal Court legal challenges related to PRRA decisions have remained relatively consistent pre- and post-reforms to the in-Canada asylum system. Only a small percentage of judicial review decisions were favorable for the claimant pre-and post-reform.

The previous evaluation of the PRRA program examined the number and result of federal court appeals on PRRA decisions as one indicator of program integrity, and found that only a small percent of PRRA decisions were overturned by the Federal Court. The current evaluation of the PRRA program examined federal court appeals of PRRA decisions pre- and post-reform to determine whether there was any change in the number of appeals or results of the appeals. Note that due to data availability, these data include only failed refugee claimants who received a negative PRRA decision.<sup>37</sup>

As shown in Table 4.2, the number and proportion of individuals that submitted an application for leave for judicial review<sup>38</sup> was similar pre- and post-reform. Out of the total number of failed refugee claimants who received a negative PRRA decision, only 8% or 1,676 (2009-2011) and 11% or 1,539 (2012-2014) filed applications for leave for judicial review. Furthermore, only 4% (2009-2014) of judicial review decisions, out of the total number of applications for leave and for judicial review, were favorable for the claimant.

<sup>37</sup> Data on federal court appeals of PRRA decisions was obtained from IRCC's Refugee Claimant Continuum, a database incorporating information on asylum claims, claimants, and outcomes from multiple sources.

<sup>38</sup> An application for leave for judicial review is not an appeal of the decision; rather, it is a request to have the decision and the decision-making process reviewed. In the application for leave, the applicant must persuade the Federal Court that the application raises a serious issue involving an error in law, such as a violation of natural justice or an excess of jurisdiction by the decision-maker.

**Table 4.2: Number and Result of Federal Court Appeals on PRRA Decisions, Pre- and Post-Reform**

	Pre-Reform (2009-2011)		Post-Reform (2012-2014)	
	Number	%	Number	%
Number of negative PRRA decisions rendered	21,025	--	13,515	--
Applications for leave for judicial review of negative PRRA decisions	1,676	8%	1,539	11%
<i>Applications for leave for judicial review denied*</i>	1,282	76%	1,070	70%
<i>Applications for leave for judicial review granted or consented**</i>	215	13%	308	20%
Judicial review s granted or consented (out of the total number of applications for leave and for judicial review)	63	4%	63	4%

*\*Note that some applications for leave for judicial review are abandoned or withdrawn. These excluded from the data in the table.*

*\*\*Successful leave applications may either be granted (meaning that the court rules that a judicial review will proceed; or consented (meaning that the responding department accepts the case for redetermination, without the need for a court ruling).*

Source: Refugee Claimant Continuum and Operations Performance Management Branch.

#### 4.2.4. Effectiveness of the PRRA Bar

**Finding:** The majority of failed refugee claimants who made an asylum claim post-reform (non-DCOs only) were not removed before the one-year PRRA bar expired, thus limiting its effectiveness.

The evaluation of the ICAS reforms examined the effectiveness of the PRRA bar in terms of whether individuals were removed before the bar expired. This included only failed claimants from non-DCOs who submitted a claim after the reforms came into force on December 15, 2012 (i.e., new system claimants)<sup>39</sup>. The evaluation found that almost three-quarters (74% or 739 individuals) of individuals from non-DCOs who received a negative IRB decision in 2013 were not removed before the one-year bar expired; 26% (or 266 individuals) were removed before the bar expired.<sup>40</sup> Therefore, while the PRRA bar prevented non-DCO claimants from applying for a PRRA within a year of their IRB decision, removals are not being concluded in a timely enough fashion to prevent failed claimants from non-DCOs from being able to apply for a PRRA prior to being removed. The evaluation was unable to assess the full extent to which DCO claimants were removed before the three-year bar expired, as the three-year bar had not yet expired at the time of analysis. However, of the individuals from DCOs who received a negative IRB decision 2013, 67% (or 210 of 313 individuals) were removed.

The evaluation of the ICAS reforms found that there are a number of challenges associated with the removals process that can have an impact on removing failed claimants within the 12 months, including: lack of documentation to prove nationality and citizenship, inability to locate foreign nationals, foreign nationals who are medically unfit to travel, failure of countries to be able to

<sup>39</sup> Due to the limited timeframe available for analysis, the evaluation was only able to assess the 1-year PRRA bar on non-DCO new system claimants who received their last IRB decision in 2013.

<sup>40</sup> These data were obtained from IRCC's Refugee Claimant Continuum, which pulls together information on the in-Canada asylum system from multiple delivery organizations and data sources. Due to how the business rules are applied to this variable in the RCC, this excludes a number of cases that were, for example withdrawn or abandoned or status unknown.

identify persons and issue travel documents to their citizens, and failure of some countries to accept the repatriation of their nationals.

The increasing number of asylum claims received in 2015<sup>41</sup>, and the fact that the majority of failed claimants in 2013 were not removed before the bar expired, may result in an increase in the number of PRRA applications received, which could put pressure on PRRA inventory levels and processing times.

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<sup>41</sup> The evaluation of the ICAS reforms found that, while the number of asylum claims received decreased substantially following the reforms (to 10,322 in 2013), there was an increase in the number of claims received in 2014 (13,410). Just over 16,000 claims were received in 2015.



## 5. Conclusions

The previous evaluation of the PRRA program, completed in 2007, identified program integrity issues related to the growing number of applications received, high program uptake, large inventories, and long processing times. No significant changes were made to the PRRA program following the 2007 evaluation until the implementation of the backlog reduction strategy (2010/11) and the ICAS reforms (2012/13). The backlog reduction strategy provided additional resources for the program with the objective of reducing the inventory of applications in preparation for the implementation of the ICAS reforms and the planned transfer of the program to the IRB. As part of the implementation of this strategy, responsibility for the program was transferred to IRCC's Backlog Reduction Offices, with the role for receiving, triaging, and distributing applications being centralized in the Vancouver backlog reduction office.

Overall, the PRRA program in its current state is stable and functioning well, with no major issues identified through the evaluation. The backlog reduction strategy, reforms to the ICAS, and the implementation of the bar addressed the program integrity issues identified in the 2007 evaluation. Intake has decreased; the inventory is low; processing times have remained steady; and communication and coordination are generally effective, with some room for improvement.

The implementation of the backlog reduction strategy and the centralization of the program resulted in a significant reduction of the PRRA inventory—from 7,350 cases in 2011 to 2,670 cases in 2012. Both CBSA and IRCC interviewees were very positive with respect to the centralization of program. From an IRCC perspective, the key benefit of centralization was the ability to better manage the PRRA inventory (e.g., better knowledge of the inventory, easier coordination of files, improved ability to distribute cases based on workload and availability). In addition, the centralization of the program has improved communication and coordination both within IRCC and between IRCC and the CBSA, which was identified as an issue in the previous evaluation.

Room for improvement exists within the process used to determine how many PRRAs will be initiated by the CBSA to make the targets more consistent throughout the year. It was also suggested that file distribution to the Backlog Reduction Offices could be improved to better align the number of applications received with the workload and availability of decision-makers.

The PRRA bar was limited in its effectiveness, as the majority of failed claimants subject to the one-year bar were not removed within one year. Despite this, there was a decrease in the number of claims received following the implementation of the ICAS reforms and in fewer people being eligible to apply for a PRRA (due to the introduction of the bar, which also resulted in fewer PRRA applications overall). Given this and the fact that the number of asylum claims received has been increasing since 2013, the number of PRRA applications could increase in the future, potentially putting new pressure on inventory levels and processing times.

As the recommendations for the evaluation of the ICAS reforms call for a comprehensive review of key components of the asylum system, the PRRA transfer decision and further improvements to the program can be best considered as part of this review and any revisions. In doing so, the following key considerations should be taken into account:

1. Given the connection between the PRRA program and CBSA removals, it is necessary to have effective communication and strong operational coordination between the two organizations responsible for these functions. This will ensure that any operational issues can be effectively addressed. In addition, it will ensure that the number of PRRAs being triggered will be aligned

with available resources (namely, decision-makers) and that PRRA decision timelines do not have a negative impact on the removals process.

2. Given the number of asylum claims received increased between 2013 to 2015 (and projected to keep rising), there will likely be a corresponding increase in the number of PRRA applications, which could put further pressures on the system. This, coupled with the high number of claimants who were not removed before their bar expired, will make it necessary to closely monitor the PRRA program and adjust as needed to ensure that sufficient decision-making resources are available to handle potential increases. This will ensure that decisions will be made in a timely fashion, that inventory levels will be maintained at a manageable level, and that PRRA decision timelines will not have a negative impact on removals targets, as established with the ICAS reforms.